

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Julie D Gravelle, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a criminal complaint and an arrest warrant for JOSEPH FINDLEY (hereafter “FINDLEY”) for violating 18 U.S.C. § 1992(a)(4)(A) and (10) (Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air).¹

2. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), and I have been in this position since September 2021. I am currently assigned to the Cleveland Division of the Federal Bureau of Investigation, specifically the Joint Terrorism Task Force. As a Special Agent, I am engaged in the enforcement of criminal laws and have participated in complex investigations including civil disorders, riots, prohibitions with respect to biological weapons, bomb threats, threatening communications, and others. I have received training in the exploitation of digital media and cyber investigations. I am familiar with cellular telephones, specifically with the location services and abilities of cellular providers. As a federal agent, I am authorized to investigate violations of laws of the United States, and as a law enforcement officer I am authorized to execute warrants issued under the authority of the United States.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies. This affidavit is

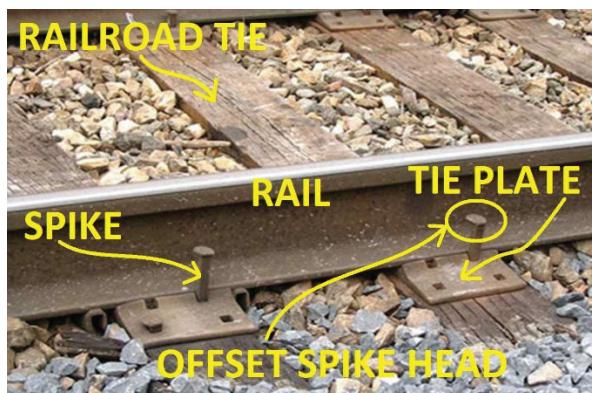
¹ 18 U.S.C. § 1992(a)(4)(A) applies to “whoever...knowingly and without lawful authority or permission—sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck railroad on-track equipment” where any of the conduct required for the offense be “engaged in, on, against, or affecting a mass transportation provider, or a railroad carrier engaged in interstate commerce.” 18 U.S.C. § 1992(a)(10) applies to any attempts or threats to violate § 1992(a)(4)(A).

intended to show merely that there is sufficient probable cause for the requested warrant. It does not set forth all of my knowledge, or the knowledge of others, about this matter.

PROBABLE CAUSE

4. On Saturday, August 12, 2023, at or around 12:19 PM, a CSX train engine, the B&O Heritage Unit, and a passenger train car struck objects that had been jammed into the railroad switch located at milepost QD178.8 of the CSX Rail Line. This switch is located just east of East 55th Street in Cleveland, Ohio. These objects, which consisted of loose track material such as metal tie plates² and metal spikes, were placed on the switch, a mechanical installation on the tracks that guides trains from one track to another, so as to render the switch unworkable, unusable, and hazardous to work on or use.

5. A diagram of the tie plates, spikes, and rail is shown below:



<https://inspectapedia.com/interiors/Railroad-Spike-History-ID.php>

6. The material placed in the switch created a gap between the rail and the point of the switch rail. With that gap, a train cannot properly follow the direction of the rail while

² A railroad tie plate is a thick steel panel which sits between the tracks and wooden rail ties on a standard railroad track. Generally, they are approximately one foot long and around six to seven inches wide. The tie plate sits under the rail and the spikes secure the rail to the plates and wooden ties.

entering the switch. When a train travels through a switch that has such a gap, it can derail and/or damage the mechanisms controlling the switch operations. Diagrams of the switch and switch derailment are shown below:

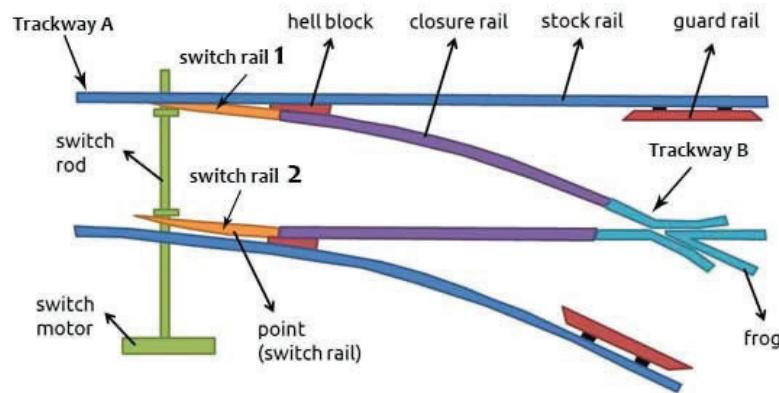
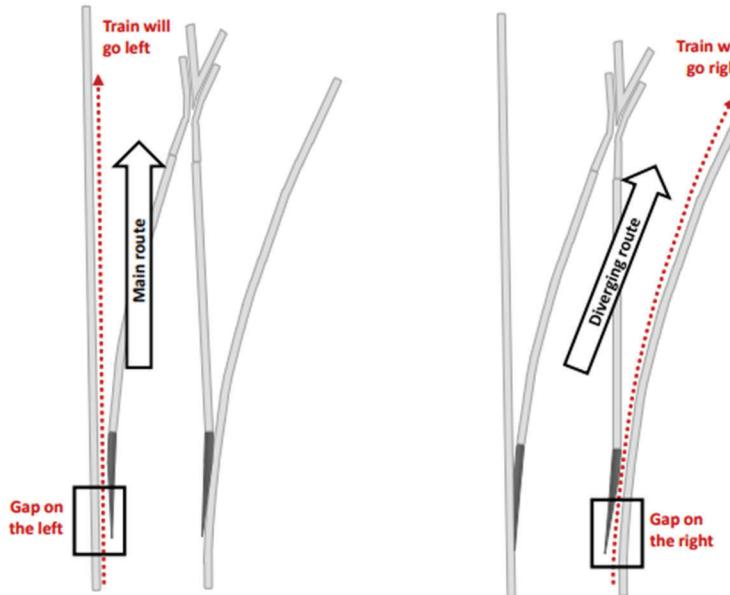
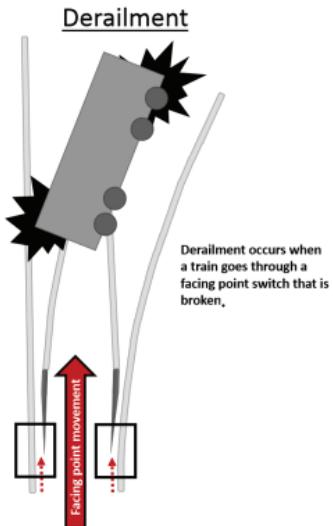


Diagram of a railway switch. railway-fasteners.com



The point on the switch can be open or closed to indicate the proper direction of travel. (Why Do Passenger Trains Run through Switches in the Rail Yard? USDOT)



Added space on the wrong side of the track directs the train out of the direction of movement, causing a derailment. (Why Do Passenger Trains Run through Switches in the Rail Yard? USDOT)

7. At the time it struck this foreign object obstructing the switch on August 12, the CSX B&O Heritage Unit (the “Unit”) was conducting a test run for a special occasion known as Family Days, an employee appreciation event for CSX employees and their families. The Unit struck the obstruction, which caused the wheels to ride on top of the material and derail. The train eventually dropped back into place in the tracks, but the switch was damaged. The operators reported feeling the train ride up on top of the tracks and then falling back down. The repair cost for the switch was determined to be approximately \$10,000. The Family Days train also had to change its route for the event.

8. On Monday, August 14, 2023, at or around 8:55 AM, Special Agent Jake Sigler (hereafter “SA Sigler”) of CSX Railroad Police received a call from CSX Track Inspector Cory Sirk (“Sirk”).³ Sirk notified SA Sigler of the broken switch and about new obstructions he found had been placed in the switch guardrail after the initial obstruction was cleared on August 12. At

³ Your affiant has since spoken with SA Sigler to gather further information about this call and other information related to this investigation, some of which is contained in this affidavit. SA Sigler previously worked for Findlay Police Department for over ten years and has worked for CSX Railroad Police for one year.

the switch in question, SA Sigler observed track material, consisting of tie plates, spikes, and other unknown pieces of metal, wedged between the guardrail and the rail. This was done both on the Lakefront mainline of the tracks and the adjoining track that the switch connects the main line to.

9. The guardrail part of the switch is meant to keep a train from derailing while it passes through the switch and prevent any improper or unsafe movement of the train from the track. SA Sigler reported that the placement of an object in that part of the switch would defeat the purpose of the guardrail and cause the train's wheels to ride up and out of the cavity where they are intended to operate on the track. For this reason, any obstructions in the guardrail greatly increase the likelihood of a derailment of a passing train.

10. SA Sigler has reported to me that, based on his training and experience, these objects were placed in the guardrail of the switch in order to cause a derailment. According to SA Sigler, the material was placed in such a way that it resembled a "derail device." A derail device is a device intentionally placed on the rail, commonly by railroad employees, to prevent uncontrolled or unauthorized train cars from entering a section of track. This device can also be used to protect an area of track from unauthorized train movement where railroaders are working or to protect the uncontrolled cars from entering the mainline from a spur. The investigation shows that the obstruction was not placed by a railroad employee.

11. SA Sigler also informed me that during his time as a CSX Special Agent, he has seen bulletins distributed by various international terrorist groups that disseminate information on how to make a homemade derail device to disrupt critical rail infrastructure or cause serious harm to passengers of passenger trains.

12. Based on my investigation in this case, I have learned that CSX typically does not use this stretch of rail. It is primarily used by Amtrak, the U.S. national passenger rail service, to connect from the CSX rail network to the Norfolk Southern rail network. I have learned from Detective James Fitch with Amtrak Police that a typical Amtrak train that crosses through this switch has an average of 180-200 people onboard. I have also learned that there are typically two Amtrak trains per day that traverse this particular stretch of track, meaning that approximately 360-400 people per day are exposed to the danger caused by objects placed into the switch guardrail at this location.

13. Both obstructions were photographed by CSX before they were removed by track crews. Because of how firmly they were jammed and placed in the switch, track workers had to remove the obstructions by torch and other mechanical means. When SA Sigler and other CSX employees inspected the obstructions after they were removed, they observed that the material was worn and bare metal was exposed, indicating that it was likely at least one train struck the obstruction located on the mainline track. One of the tie plates was sent to the Ohio BCI lab for fingerprint and DNA analysis, but no fingerprints or DNA was recovered from the tie plate. A photo of the obstruction before it was removed from the guardrail on the main line is below:



14. Road Foreman Mike Berghaus (“Berghaus”) was asked to investigate the initial incident that occurred during Family Days on August 12. Berghaus downloaded the dash camera from the locomotive that collided with the obstruction, CSXT1927. I have personally reviewed this footage. At 12:19 PM on August 12, before the Family Days event began, a train is seen passing through the switch. An obstruction is visible on the switch in the same general area and same placement as observed on August 14. The train makes it through the switch without visibly derailing. When the train reversed back to the yard, the switch can be seen in a partially open state. Photos of these obstructions taken by SA Sigler and the CSX work crew are included below:



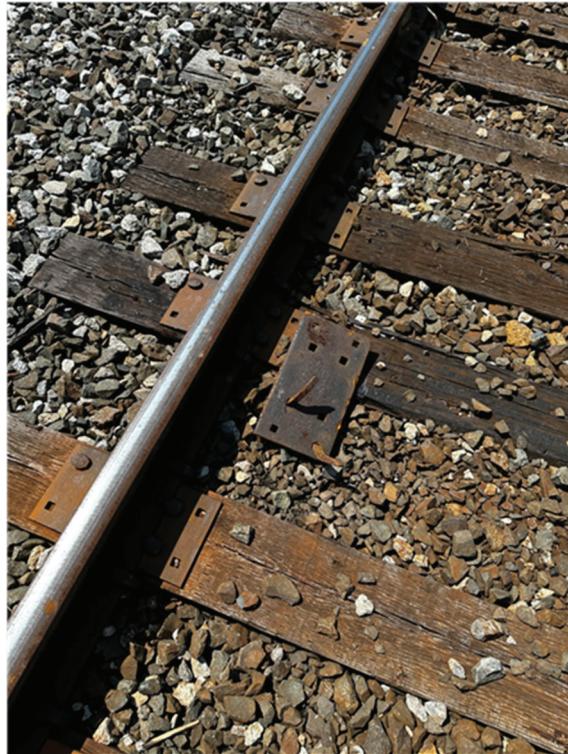
The part of the switch that moves the track from an “open” or “closed” position is called a “point.” Pictured above is the main line with a railroad tie anchor in the point. Rail anchors are steel clips that attach to the underside of the rail baseplate and bear against the sides of the ties to prevent longitudinal movement of the rail, either from changes in temperature or through vibration.



Pictured above is a track with an anchor in place, preventing the switch from directing the train’s movement properly.

15. Dominion Energy is located to the south of the tracks where the obstacles were placed ahead of August 12 and August 14. From speaking to SA Sigler, I am aware that SA Sigler conferred with Dominion Energy Supervisor of Investigations Mark Knoll (“Knoll”). Knoll had his team check Dominion Energy surveillance cameras, but Knoll reported that he was unable to locate relevant video footage due to the angles at which the cameras were placed. After being contacted, Dominion Energy personnel adjusted and cleaned their cameras in order to better capture video footage of the relevant section of track.

16. Over the next few days, CSX work crews reported several pieces of debris were placed on the tracks further east of the switch. This debris consisted of two fiberglass panels and various pieces of track material, including tie plates and spikes. The tie plates and spikes were found both in the gauge of the track (the space between the track rails) and the surrounding area. The spikes were in the tie plates, but with the sharp end facing upwards. SA Sigler has reported to me that based on his experience working for the railroad, he has never seen tie plates and spikes left in such a way by railroad personnel. SA Sigler confirmed with numerous track workers that this is not an accepted practice. Track material placed in this state poses a safety hazard to people walking around the tracks due to the sharp edge facing upwards. In SA Sigler’s experience, tie plates are assembled in this fashion to easily be carried or to cause harm to someone walking around the railroad tracks. The following photo shows an example of a spike sticking up through a tie plate.



17. On Friday, August 18, 2023, at 4:43 PM, a male was caught on the CSX trail cameras walking near the switch. A photo from the camera is shown below. The male looks as if he is looking down at the switch where the obstructions had been placed earlier. The male is wearing a black shirt, jean shorts, and carrying an aluminum beverage can of unknown type. SA Sigler contacted Dominion Energy Supervisor Knoll and asked for his team to check the cameras operated by Dominion Energy at that same timeframe. They provided a still shot of the male but the visibility of the male's face is limited due to the quality of the camera. Railroad personnel inspected the switch after this footage was captured, but no obstruction was located.



August 18: Male subject wearing black shirt and jean shorts holding a can.

18. I am aware that on Monday, September 18, 2023, CSX Track Supervisor Jarod Hess (“Hess”) contacted SA Sigler and reported an obstruction being placed at the switch again. SA Sigler spoke to Hess and other CSX personnel. CSX Track Inspector John Wolverton and CSX Welder Ryan Kozan reported to SA Sigler that they were inspecting the track when they observed material wedged between the guardrail and the rail for the mainline. They reported that they removed the material by mechanical means and advised that based on the condition of the material, it appeared to have been struck by at least one train.

19. SA Sigler and I reviewed the footage from the trail cameras following the discovery of more obstructions. On Sunday, September 17, 2023, at 3:15 PM, the trail camera shows a male walking westbound near the switch. The male was wearing the same clothing and appeared to be the same male seen on August 18, 2023. The male was carrying a white can with a blue letter “N” printed vertically on the can. The male’s hand obstructed the rest of the lettering on the can. Following is a still shot from this video.



September 17: Male subject wearing black shirt and jean shorts holding a can.

20. Knoll provided video from the cameras at Dominion Energy for this time frame. A figure wearing clothing that matches the above description can be seen moving westbound on the tracks at 3:14 PM. The figure stops and bends over the switch for a few minutes. The figure continues westbound out of frame for a few minutes before returning and walking eastbound out of frame in the other direction at 3:22 PM. The figure appeared to be wearing the same clothing as the photo provided from Dominion Energy on August 18. The figure was holding a can during this video, too. At 3:23:54 PM, the subject stops, looks back towards the switch, and takes a drink from something. Based on my review, these time stamps for the footage from the Dominion Energy video footage appear to correspond with those in the CSX trail camera footage and appear to show the same subject.

21. On Saturday, September 30, 2023, around 12:33 PM, the same subject returned to the area around the switch. The subject can be seen in trail camera footage wearing a black shirt and jeans and carrying a white can, as before. The subject does not appear to tamper with

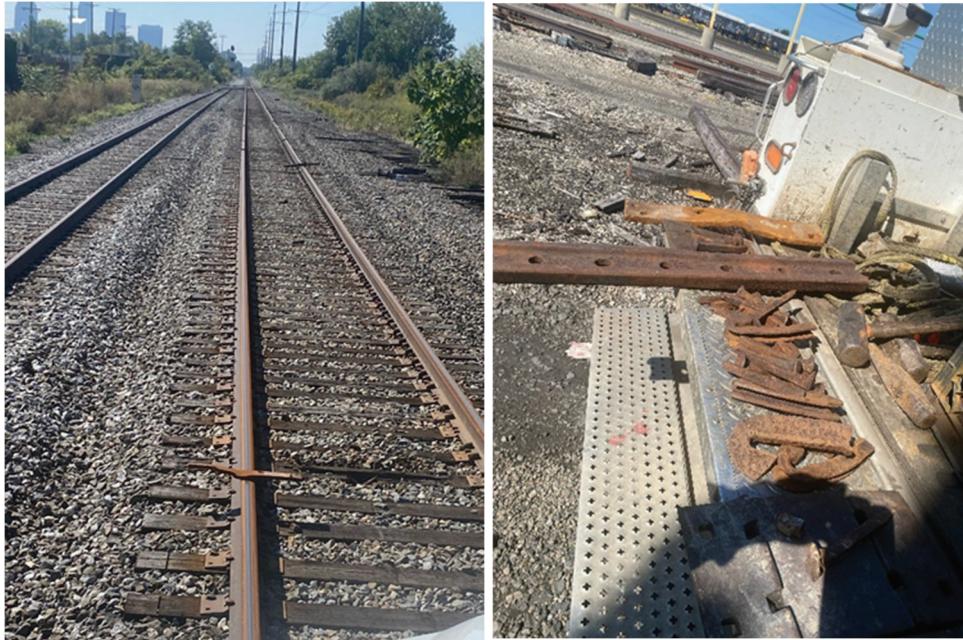
the switch, but he can be seen taking several pieces of track material and placing them on other parts of the rail. The subject can also be seen holding a cellular phone as he leaves the tracks.



September 30: Male subject wearing black shirt and jeans shorts holding a can.



Subject appears to be holding a cellular phone and is looking down at it.



September 30: Track material found place on the track on September 30 after male subject left the area.

22. On Sunday, October 1, 2023, at or around 10:18 AM, the same subject can be seen on surveillance cameras again walking toward the switch, wearing the same clothing, and carrying a can similar to the ones collected prior. Photos of the subject near the switch show him standing over it with no spikes obstructing the track, him bending over the tracks, and then standing again with what was later determined to be four spikes that he placed in the tracks. SA Sigler and members of the Cleveland Division of Police recovered the spikes in this location on October 1, 2023. After recovering the spikes, SA Sigler and I reviewed the CSX trail camera and Dominion camera footage and noted the same male subject walking along the tracks again.



SPARTAN SLC-1 M 10/01/23 10:23:33 ● 96°F AA5 LI3

October 1: Male subject seen standing at switch.



Zoomed in photo of above. A railroad spike can be seen (red circle) in subject's right hand. The switch (yellow circle) is clear of any obstructions at this time.



Zoomed in photo of above. The spike is no longer in his right hand. An obstruction (yellow circle), later determined to be four railroad spikes, can be seen in the switch.

Identification of Subject JOSEPH FINDLEY

23. I am aware that on September 20, 2023, SA Sigler took the image from the hidden trail camera to various carry-out markets in the vicinity of the tracks. A clerk at one of the stores

immediately identified the male as FINDLEY. The clerk explained that they have known FINDLEY for most of their life. The clerk also said that FINDLEY grew up in the neighborhood and is known to drink heavily. The clerk stated that FINDLEY lives on a dead-end road nearby.

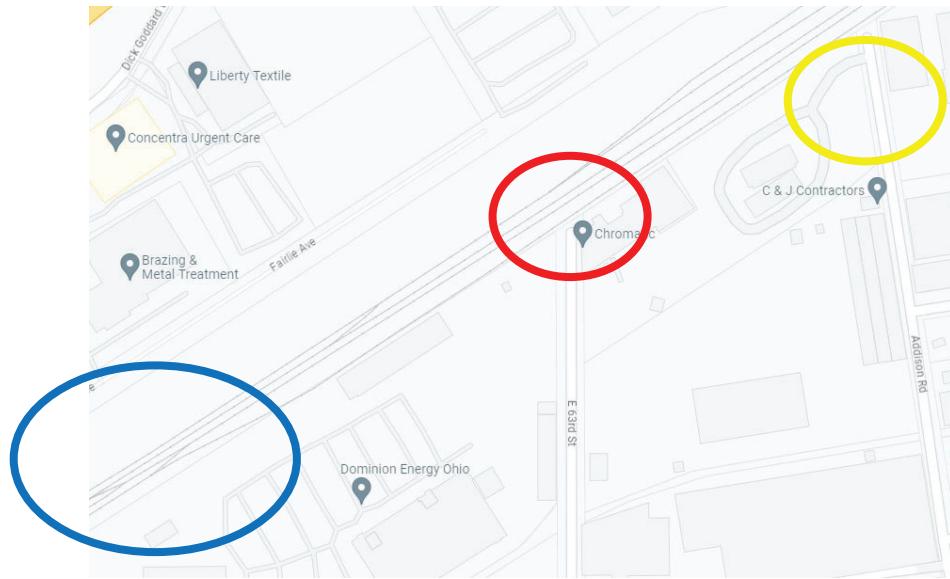
24. A search of databases revealed a “Joseph Demetrius Findley” with an address on a nearby dead-end road. The Ohio Bureau of Motor Vehicles confirmed Joseph Demetrius Findley reports this address as his home residence.



Driver's License Photo for Joseph Findley. Ohio BMV

25. I am aware that on September 20, 2023, SA Sigler searched the area of the tracks closest to East 63rd St. and located two 12-ounce “Natural Light” beer cans. East 63rd Street has a pedestrian entrance to the tracks. This entrance along with a path at the end of Addison Road are both within walking distance of FINDLEY’s residence. Based on the video surveillance footage I have reviewed, FINDLEY likely uses the Addison Road entrance to the tracks, but walks past the East 63rd Street entrance to access the switch. The Natural Light cans appear to match those FINDLEY was seen carrying on the trail camera footage. Several more ties and spikes were found in the same area as the cans. They were assembled as seen with the initial obstructions described in paragraph 16 above. In SA Sigler’s experience, they again appeared to be staged to

potentially cause harm to someone walking in the area. A map of the access points and the switch are shown below.



The access point likely used by Findley (yellow circle) is east of the access point at E 63rd (red circle) where the cans were located, which is further east of the switch (blue circle)

26. SA Sigler reported to me, based on his training and experience, that it was unlikely the obstructions placed in the tracks were placed there inadvertently given their placement and how firmly wedged they were in the switch. SA Sigler reported that often times, he sees debris on the tracks that appears to have been discarded by minors playing around, but that this situation exhibits characteristics of an intentional act to derail a train and cause harm to people and property. In particular, the objects were placed in the switch, where the wheels of the train are supposed to go. With the objects in this specific area, the wheels of the train could be caused to ride up and out of the track. Objects placed in other areas, like on top of the track, are unlikely to cause a derailment. A train would likely push these objects out of the way. Additionally, the objects placed are large enough to cause a derailment. Smaller objects, like pennies or rocks, would not be able to withstand the weight or velocity of the train and would be destroyed. These objects are made of steel, are thick-gauged, and meant to withstand the weight

and velocity of a moving train. The objects and their specific placement indicate a base knowledge of how the tracks and the switch operate as well as how to disrupt these normal operations.

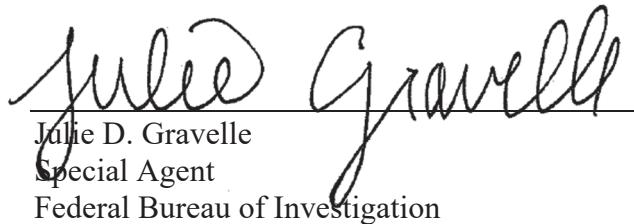
27. On October 6, 2023, the FBI executed a search warrant issued in the Northern District of Ohio at FINDLEY's residence. During the execution of the search warrant, the FBI found clothing matching the clothing of the person in the surveillance videos.

28. The FBI also interviewed FINDLEY on October 6, 2023, after advising FINDLEY of his *Miranda* rights. During the interview, FINDLEY admitted that he was the person seen in the surveillance videos. He also admitted that he placed railroad spikes in the tracks on October 1 and other dates. However, he denied placing other pieces of metal in the tracks and denied that he intended to derail a train.

CONCLUSION

29. Based on the foregoing, your Affiant believes there is probable cause to issue a complaint charging JOSEPH FINDLEY with violating 18 U.S.C. § 1992(a)(4)(A) and (10) (Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air).

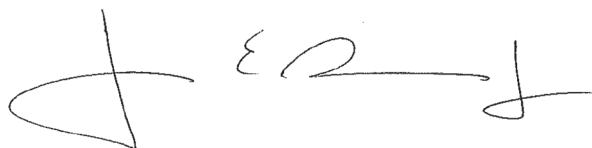
Respectfully submitted,



Julie D. Gravelle
Special Agent
Federal Bureau of Investigation

Sworn to via telephone after submission by reliable electronic means. Crim.Rule. 4.1.
this 6th day of October, 2023.




James E. Grimes Jr., United States Magistrate Judge